

**REMARKS/ARGUMENTS**

In the Office Action, the Examiner rejected claims 3-10 under 35 U.S.C. §101 because the claims were allegedly directed to non-statutory subject matter. The Examiner rejected claim 5 under 35 U.S.C. §112 for allegedly failing to comply with the written description requirement. The Examiner rejected claims 3-4, 6-7, and 9-10 under 35 U.S.C. §103(a) for being allegedly unpatentable over Burgess et al., U.S. Patent No. 5,796,633 in view of Hasbun et al., U.S. Patent No. 6,311,290, further in view of Voigt et al., U.S. Patent No. 5,463,776.

With this amendment, the Applicants cancel claims 3-10 and submit new claims 11-18 for consideration. In general, new claims 11-18 more clearly distinguish the over the cited references.

The differences between the cited references and the pending claims include the following. With reference to the pending specification, an illustrative embodiment of the recited claims as shown in FIG. 1 includes one or more storage systems (NAS) 100 and one information processing device 400. The information processing device 400 stores information (as shown by reference to FIGs. 2, 3, 5, and 6) on the performance data acquisition policy. Each NAS 100 includes a performance management program 900. The performance management program 900 reads the performance data acquisition policy from the information processing device 400 (as shown in S102 of FIG. 8 and on page 16, lines 13 to 19) when starting the process. Respective performance management programs 900 in respective NASs 100 read the same performance data acquisition policy. Each performance management program 900 determines the initial operation policy and the operation policy depending on the free space capacity in the respective storage device 200. This is shown in S106 to S112 and S118 to S120 of FIG. 8 and on page 16, line 22 to page 17, line 22, and on page 18, lines 2 to 14.

By the above-mentioned scheme, the basic policy of the system can be defined by storing the basic policy on the information processing device 400, and thereafter, the individual policy of each NAS 100 is automatically and dynamically determined by each performance management program 900 depending on the status of the storage device 200.

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Amdt. dated December 8, 2005  
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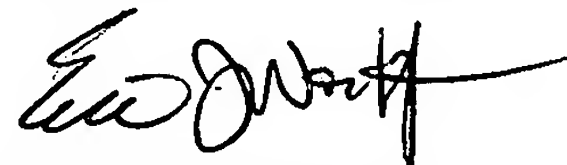
Applicants assert that such a performance data acquiring policy determining scheme, as taught in the specification and claimed in claims 11-18, is not shown in the cited references.

### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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